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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,458	10/25/2000	Douglas M. Jennings	1712-0001	3571

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EXAMINER

LUM, LEE S

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 11/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/696,458

Applicant(s)

JENNINGS, DOUGLAS M.

Examiner

Ms. Lee S. Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 9/3/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. An Amendment was filed 9/3/02 in which Claims 17 and 18 were cancelled, and Claims 52-61 added.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 57 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 6, "window" lacks antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 26-44 and 52-61 are rejected under 35 U.S.C. 102(a) as being anticipated by a supplemental product catalog distributed by "Auto Meter Competition Instruments" for 2001, having a publication date of 10/24/00 (lower right corner). A clearer picture of product #10003 is also provided, located on p 17 from the main catalog of 2001 by Auto Meter.

Re **Claims 26-44**, Auto Meter discloses a replacement instrument bezel, product number 10003, "Dual Instrument Cluster Bezel" comprising

bezel (body of this product) configured to be mounted in a bezel-mounting space defined between a dashboard housing (inherent) and an instrument assembly (unidentified), the latter including a window (inherent) and speedometer (meter towards center of assembly),

the original bezel possessing no instrument mounts (OEM; see description under "Instrument Cluster Bezels" for part # 10003, with emphasis on "replaces the stock Instrument Bezel and allows you to add two...gauges"), and,

one or two instruments secured* to the bezel in respective instrument mounts, each on opposite sides of the lower portion of the bezel.

* It is clear that the additional instrument may be installed before or after the replacement bezel is installed, depending on the type of instrument. This feature does not affect the function of the invention.

Re **Claims 52-61**, Auto Meter discloses a method of adding an instrument to a vehicle that includes a speedometer, the steps comprising

removing an original part (instrument bezel) from a mounting space,
the space including a dashboard with a rim (the rim inherent),
the space including a viewing opening for a speedometer,
the speedometer located at the rear of a window (inherent, and see photo of product #10003),

and the original part not possessing instrument mounts (OEM; see description under "Instrument Cluster Bezels" - "replaces the stock Instrument Bezel"),
installing a replacement part having at least one instrument mount (same description, with emphasis on "[t]his new Instrument Cluster Bezel...allows you to add two...gauges"),
the mount located on a front side of a window,

locating the additional instrument(s) before, or after, installation of the replacement part (inherent, and dependent on type of instrument).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auto Meter alone.

Auto Meter does not specify that instructions are included with the product, but it would have been obvious to one with ordinary skill in the art at the time the invention was made to include this element so that proper installation would be accomplished even by a nonexpert.

5. RESPONSE TO REMARKS

As provided above, and in response to Applicant's remarks, Examiner has rejected the claims using product #10003 made by Auto Meter, versus her prior use of product #50101, "Gauge Cage". Product #10003 is clearly a replacement instrument bezel, including a central speedometer, and integral mounts on either side for additional instruments.


With respect to Claims 27, 30, 31 34, 36, 42 and 43, it is clear (or inherent) that product #10003 permits the installation of the additional instrument either before or after the replacement bezel is installed, depending on the type of instrument. Therefore, these claims have been rejected under 35 USC 102(b), versus 103(a).

6. Communication with the Examiner and USPTO

Any inquiry concerning this communication should be directed to Ms. Lum at (703) 305-0232, 9-530, M-F. Our fax number is (703) 308-2571. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer assistance at (703) 306-5771.

Ms. Lee S. Lum
Examiner
11/13/02




Lesley D. Morris
~~Primary Examiner~~
SPEAU 3611